

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Dunn Analyst: Marion Mann DeJong Bill Number: SB 1724

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 08/23/2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Prohibit Disclosure of Information by Tax Preparers & Prohibit FTB to Approve Filing Requiring Consent to Disclose Specified Information

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED August 11, 2000, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Revenue and Taxation Code (R&TC), this bill would prohibit the Franchise Tax Board (FTB) from approving electronic filing software or electronic tax forms that require taxpayers to consent to the disclosure of information as a condition of access to that software or those forms.

Under the Business and Professions Code (B&PC), this bill would:

- ?? Expand criminal sanctions for disclosures of tax return information by businesses that prepare returns by adding disclosures made either within the tax-preparing firm (for purposes other than tax preparation) or to subsidiaries or affiliates of the tax-preparing firm.
- ?? Add filing an income tax return electronically to the list of activities that defines persons engaged in the business of preparing tax returns or assisting in the preparation of tax returns.
- ?? Allow the written consent for disclosure to be done electronically with an electronic signature.
- ?? Modify the definition of "tax preparers" to include persons who, for consideration other than a fee, prepare tax returns for another person.
- ?? Make each violation of the criminal provisions regulating the practice of tax preparers a separate offense.
- ?? Specify that tax return information includes information obtained through an electronic medium.
- ?? Require the disposal of tax return information in a manner that protects the identity of taxpayers.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

9/12/00

Under the Civil Code, this bill would establish a civil penalty for disclosure of tax return information provided by a consumer in connection with financial or business-related transactions. This consumer protection penalty would be based on the taxpayer protection penalty under the B&PC.

The B&PC and Civil Code provisions do not directly impact the programs administered by FTB.

The provisions relating to destruction of tax information being added by this bill to the B&PC and the Civil Code are tied to AB 2246. If AB 2246 is enacted and becomes operative on or before January 1, 2001, Section 17530.6 of the Business and Professions Code and subdivision (d) of Section 1799.1a of the Civil Code, as added by this bill, would not become operative.

SUMMARY OF AMENDMENTS

The August 23, 2000, amendments clarified the R&TC provision regarding electronic filing. This bill would prohibit FTB from approving for electronic filing any proprietary filing software or electronic tax forms that require taxpayers to consent to the disclosure of information protected under the B&PC as a condition of access to that software or those forms.

The August 23, 2000, amendments also deleted legislative intent language from the R&TC, made minor grammatical changes to the B&PC and the Civil Code, and added "electronic deleting" to the list of methods for disposing of information under the B&PC.

Except for the changes discussed in this analysis, the department's analysis of the bill as amended August 11, 2000, still applies.

BOARD POSITION

Support.

At its July 5, 2000, meeting, the Franchise Tax Board voted 2-0 to support this bill, with member B. Timothy Gage abstaining.